

EXHIBIT 8

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

CISCO SYSTEMS, INC.,

Plaintiff,

vs.

No. 5:14-cv-05344

ARISTA NETWORKS, INC.,

BLF (PSG)

Defendants.

HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY

CONTINUED VIDEOTAPED DEPOSITION OF KIRK LOUGHEED

VOLUME III

PALO ALTO, CALIFORNIA

FRIDAY, SEPTEMBER 16, 2016

REPORTED BY:

ANDREA M. IGNACIO, CSR, RPR, CRR, CCRR, CLR,

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1 Q Are you familiar with that process now?

2 A The process of?

3 Q The process that Terry Slattery engaged in to
4 work on Cisco's parser and CLI.

5 A Yes.

6 Q And you testified that you spoke to
7 Mr. Slattery in preparation for this deposition?

8 A Yes.

9 Q When did you speak to him?

10 A I spoke with him this morning.

11 Q For how long?

12 A Ten, 15 minutes.

13 Q Have you spoken to him at any other time
14 about the subject of this deposition?

15 A No.

16 Q The exhibit continues at the top of page 8:

17 "As part of Mr. Slattery's work for Cisco,
18 Mr. Slattery created what is now known as Cisco's
19 context-sensitive help feature, along with Cisco's
20 help descriptions in Version 9.21 of IOS."

21 Is that your understanding as well?

22 A Yes, that is my understanding.

23 Q So, would you say that Mr. Slattery created
24 the HELPDESC function and help descriptions in
25 Version 9.21?

1 A Yes.

2 Q Did Cisco IOS have a HELPDESC function prior
3 to Version 9.21?

4 A The only help function that we had was, you
5 could type a question mark at the very top of the
6 command hierarchy, and it would list the -- the
7 first -- it would list the command and a very rough
8 description of what it would do.

9 So, in a sense, those may have been help
10 descriptions, but they were -- they were very
11 primitive, as opposed to what Mr. Slattery put in
12 place.

13 Q Did Mr. Slattery create every help
14 description string in Version 9.21 of Cisco's IOS?

15 A Yes.

16 Q Did he incorporate any help description
17 strings that were in preexisting versions of IOS?

18 A I do not believe so. They wouldn't have been
19 useful for his function.

20 Q Do you know one way or another?

21 A The help descriptions that existed beforehand
22 were ones that described the entire command. And the
23 ones that Terry put in described pieces of the command
24 as -- as the person would be typing it. So they
25 wouldn't have been -- they wouldn't have been adequate

1 for what his needs were.

2 Q Did every command in Version 9.21 have an
3 accompanying HELPDESC string?

4 A I believe so.

5 Q Did Mister -- was -- strike that.

6 Was Mr. Slattery the sole author of each of
7 those help description phrases?

8 A I -- I -- I believe he was.

9 Q After Mr. Slattery's work on Version 9.21,
10 were additional HELPDESC phrases added to IOS?

11 A Yes.

12 Q Who -- who created those phrases?

13 A The engineers that were adding new -- new
14 command expressions, new CLI commands to the software.

15 Q The engineers would also create the HELPDESC
16 phrase?

17 A It -- it happens at the same time.

18 Q How was there -- strike that.

19 You're familiar with the process of creating
20 CLI commands in IOS?

21 A Yes.

22 Q And you're also familiar with the process at
23 Cisco of incorporating those commands into the source
24 code?

25 A Yes.

1 Q How were the proposed HELPDESC phrases
2 reviewed at Cisco when they were proposed alongside a
3 command?

4 A They weren't.

5 Q Whatever the engineer wrote down was what
6 would get incorporated into the source code?

7 A Yes.

8 Q Do you recall -- strike that.

9 Were there any guidelines provided to
10 engineers regarding how to author or create a -- a
11 HELPDESC string?

12 A No.

13 Q So the engineers had free rein in terms of
14 what they wanted to write?

15 A The engineers had free rein in what they
16 wanted to write. If they typed in the Gettysburg
17 Address for -- as a help message, there might be some
18 questions raised. But otherwise, they had free rein.

19 Q Do you recall an instance or are you aware of
20 any instance where an engineer's proposed HELPDESC
21 phrase was corrected or revised by someone else?

22 A There was a -- a senior engineer that would
23 occasionally run a spell checker over the -- the help
24 strings and correct spelling. Engineers are lousy
25 spellers, in general.

1 Q Were there any constraints on the engineers
2 who were creating CLI commands on how they should
3 author a HELPDESC string?

4 A No.

5 Q Are there any guidelines dictating how they
6 should use their judgment in determining what to write
7 for the HELPDESC?

8 A There were no such guidelines.

9 Q So they could essentially choose any phrase
10 they wanted?

11 A Correct.

12 Q Did Cisco's engineers, who created HELPDESC
13 phrases, consult other CLI vendors' HELPDESC when they
14 were creating them?

15 MR. HOLMES: Objection; calls for
16 speculation.

17 But you can answer.

18 THE WITNESS: Typically, they were creating
19 new functionality that hadn't existed before in the
20 industry. So going and looking and seeing what
21 somebody else did would probably not have occurred
22 to -- to those engineers.

23 MR. SANTACANA: Q. Do you know whether they
24 looked at other vendors' HELPDESC in creating their
25 own?

1 MR. SANTACANA: Q. Which engineers?

2 A The IOS ones in Nick Oliver's team.

3 Q So, when you spoke to Nick Oliver for ten to
4 15 minutes yesterday, he told you that they searched
5 for the "verify a file" HELPDESC phrase, and he found
6 it?

7 A He did not --

8 MR. NEUKOM: Objection; misstates the
9 witness' prior testimony. Also, borderline
10 inappropriate and sarcastic in the way it was put to
11 this witness.

12 MR. SANTACANA: Q. You can answer.

13 A My understanding, from talking to Nick, was
14 that he was given a list of help descriptions and was
15 asked to identify them within the Cisco software,
16 and...

17 Q And if it appears here, then your
18 understanding is that he found it in Cisco's --

19 A Right.

20 Q -- software?

21 Do you know which versions "verify a file"
22 appears in?

23 A No, I don't.

24 Q Do you know when it first appeared?

25 A No, I don't.

1 Q Do you know which individual first wrote it
2 into Cisco's source code?

3 A I have -- I do not have knowledge of that.

4 MR. NEUKOM: I'll take a standing objection
5 to the individualized questions as beyond the scope.

6 MR. SANTACANA: Q. Do you have any knowledge
7 of the process that was followed to create the "verify
8 a file" HELPDESC phrase?

9 A The -- the general process is that the
10 engineer comes up with a CLI command or an extension
11 to a CLI command. And there is always a bit of help
12 text associated with those commands. And the engineer
13 figures out what -- in his or her professional
14 judgment, what is the best way of giving some
15 assistance, guidance, as to the syntax of the CLI
16 command.

17 Q That's your general understanding of how it's
18 done; right?

19 A Correct.

20 Q Do you have an understanding of how it was
21 done with respect to this particular HELPDESC phrase
22 "verify a file"?

23 A I have no reason to believe it was other than
24 the general process that was used.

25 Q Okay. Do you have any under- -- knowledge,

1 talking about creative acts or conducts. I -- calls
2 for a legal conclusion; personal opinion; beyond the
3 scope of any topic for which this witness has been
4 designated, and asked and answered.

5 THE WITNESS: The creation of this -- I -- I
6 created this help facility. It was not copied. It
7 was created. It was my judgment of what pieces to
8 incorporate, what phrases to use, what functionality
9 to provide.

10 MR. SANTACANA: Q. When you say "facility,"
11 what do you mean?

12 A I'm talking about the ability to ask for help
13 in a parser command line interface that had a
14 privileged mode and an unprivileged mode and where you
15 could have hidden commands, where you could have
16 abbreviations for commands.

17 Q And it's the help facility that you consider
18 to be creative, not any one particular component?

19 MR. NEUKOM: Objection; compound; calls for a
20 legal conclusion; personal opinion; beyond the scope,
21 and again, violates a court order.

22 THE WITNESS: There were choices to be made
23 at every point, and I had freedom of those choices at
24 every point.

25 MR. SANTACANA: Q. At the point where you

1 chose the phrase "turn off privileged commands," what
2 aspect of that choice was creative?

3 A I could have --

4 MR. NEUKOM: Asked and answered now five-plus
5 times, and same roster of objections.

6 But you should -- of course, Mr. Lougheed,
7 you should answer the question to the best of your
8 ability.

9 THE WITNESS: I could have used a different
10 phrase for, you know, the help message there, you
11 know. Leave privileged mode. You know, enter
12 privileged mode.

13 MR. SANTACANA: Q. Enter privileged mode --

14 MR. NEUKOM: Hold on. I'm sorry.

15 Were you finished, Mr. Lougheed?

16 THE WITNESS: I'm -- yes.

17 MR. NEUKOM: Okay.

18 MR. SANTACANA: Sorry.

19 Q Leave privileged mode, not enter privileged
20 mode; right?

21 This one turns off the privileged commands.
22 It doesn't turn them on.

23 A There's two commands there, disable and
24 enable.

25 Q Right.